ARKANSAS STATE BOARD OF HEALTH

RULES AND REGULATIONS FOR ORTHOTIC, PROSTHETIC, AND PEDORTHIC PROVIDERS IN ARKANSAS

Promulgated under the Authority of Ark. Code Ann. § 17-107-101 et seq.
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ARKANSAS DEPARTMENT OF HEALTH
HEALTH FACILITY SERVICES

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SECTION 3: Definitions


2) Advisory Board or board means the Arkansas Orthotics, Prosthetics and Pedorthics Advisory Board.

3) Board for Certification in Pedorthics has merged and is now known as the American Board for Certification in Orthotics, Prosthetics, and Pedorthics, Inc.

4) Board of Health means the Arkansas State Board of Health.

5) Department means the Arkansas Department of Health.

6) Custom Fabricated and Fitted Devices.
   a. Custom fabricated and fitted device means an orthosis, prosthesis, or pedorthic device which is fabricated to original measurements or a mold for use by a patient in accordance with a prescription from a health care practitioner authorized by law to write such prescriptions and which requires substantial clinical and technical judgment in its design and fitting.
   b. Custom fitted device means a prefabricated orthosis, prosthesis, or pedorthic device sized or modified for use by the patient in accordance with a prescription from a health care practitioner authorized by law to write such prescriptions and which requires substantial clinical judgment and substantive alteration for appropriate use.
   c. Custom fabricated devices and custom fabricated and fitted devices must be dispensed by a licensed health care practitioner or by a person licensed under these rules in accordance with a prescription from a licensed health care practitioner.

7) Off-the-shelf device means a prefabricated prosthesis or orthosis sized or modified for use by the patient in accordance with a prescription from a health care practitioner authorized by law to write such prescriptions and which does not require substantial clinical judgment and substantive alteration for appropriate use.
   a. The sale of over-the-counter and off-the-shelf devices by non-licensed persons is not prohibited by these rules.

8) Orthosis means an external device that is:
   a. Intended to restore physiological function or cosmesis to a patient; and
b. Custom-designed, fabricated, assembled, fitted, or adjusted for the patient using the device prior to or concurrent with the delivery of the device to the patient.

c. Orthosis does not include a cane, crutch, corset, dental appliance, elastic hose, elastic support, fabric support, generic arch support, low-temperature plastic splint, soft cervical collar, truss, or other similar device that:

i. Is carried in stock and sold without therapeutic modification by a corset shop, department store, drug store, surgical supply facility, or similar retail entity; and

ii. Has no significant impact on the neuromuscular, musculoskeletal, or neuromusculoskeletal functions of the body.

9) **Orthotics** means the science and practice of providing or managing the provision of an orthosis based on clinical assessment, technical judgment, and an order from a health care practitioner authorized by law to write an order for an orthosis.

10. **Orthotic assistant** means an individual who is licensed under this chapter to assist an orthotist or an orthotist/prosthetist with patient care services and fabrication of orthoses or pedorthic devices under the supervision of an orthotist or an orthotist/prosthetist.

11) **Orthotic education program** means a course of instruction in orthotics:

a. Accredited by the Commission on Accreditation of Allied Health Education Programs; and

b. Approved by the Advisory Board.

12) **Orthotic resident** means an individual who has completed an orthotic education program and is continuing his or her clinical education in an orthotic residency program:

a. Accredited by the National Commission on Orthotic and Prosthetic Education; and

b. Approved by the Advisory Board.

13) Orthotic/prosthetic assistant means an individual who is licensed under this chapter to assist both an orthotist and a prosthetist with patient care services and fabrication of prostheses, orthoses, or pedorthic devices under the supervision of an orthotist, an orthotist/prosthetist, or a prosthetist as appropriate.

14) **Orthotist** means an individual who is licensed under this chapter to practice orthotics and pedorthics.
15) **Orthotist/prosthetist** means an individual who is licensed to practice orthotics, pedorthics, and prosthetics.

16) **Over-the-Counter** means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgment in either size selection or use, including fabric or elastic supports, corsets, generic arch supports and elastic hoses.

17) **Pedorthic device** means therapeutic footwear, foot orthoses for use at the ankle or below, or footwear modified for therapeutic purposes as ordered by a licensed health care practitioner authorized by law to write an order for a pedorthic device. “Pedorthic device” does not include:
   
   a. Nontherapeutic accommodative inlays or nontherapeutic accommodative footwear regardless of method of manufacture;
   
   b. Shoes modified or made for nontherapeutic purposes;
   
   c. Unmodified shoes; or
   
   d. Prefabricated foot care products.

18.) **Pedorthic education program** means a course of instruction in pedorthics:

   a. Accredited by the American Board for Certification in Orthotics, Prosthetics, and Pedorthics, Inc.; and

   b. Approved by the Advisory Board.

19) **Pedorthics** means the science and practice of providing or managing the provision of a pedorthic device based on clinical assessment, technical judgment, and an order from a health care practitioner authorized by law to write an order for a pedorthic device;

20) **Pedorthist** means an individual who is licensed under this chapter to practice pedorthics.

21) **Prefabricated device** means a mass-produced device that:

   a. Is prepackaged, carried in stock, and sold off the shelf or over the counter by a corset shop, department store, drug store, surgical supply facility, or similar retail entity; and

   b. Does not require clinical assessment, technical judgment, or therapeutic modification for appropriate use by the customer.

   c. “Prefabricated device” may include a cane, a crutch, a corset, an elastic hose, an elastic support, a fabric support, a generic arch support, a low-temperature plastic splint, a soft cervical collar, a truss, or other similar device.
22) **Prosthesis** means an external device that is:

a. Intended to replace an absent external body part for the purpose of restoring physiological function or cosmesis to a patient; and

b. Custom-designed, fabricated, assembled, fitted, or adjusted for the patient using the device prior to or concurrent with being delivered to the patient.

c. “Prosthesis” does not include an artificial eye, an artificial ear, a dental appliance, a cosmetic device, such as artificial eyelashes or wigs, an artificial facial device, or other device that does not have a significant impact on the neuromuscular, musculoskeletal, or neuromusculoskeletal functions of the body.

23) Prosthetic assistant means an individual who is licensed under this chapter to assist a prosthetist or orthotist/prosthetist with patient care services and fabrication of prostheses under the supervision of a prosthetist or an orthotist/prosthetist.

24) **Prosthetic education program** means a course of instruction in prosthetics:

a. Accredited by the Commission on Accreditation of Allied Health Education Programs; and

b. Approved by the Advisory Board.

25) **Prosthetic resident** means an individual who has completed a prosthetic education program and is continuing his or her clinical education in a prosthetic residency program:

a. Accredited by the National Commission on Orthotic and Prosthetic Education; and

b. Approved by the Advisory Board.

26) **Prosthetics** means the science and practice of providing or managing the provision of a prosthesis based on clinical assessment, technical judgment, and an order from a health care practitioner authorized to write an order for a prosthesis.

27) **Prosthetist** means an individual who is licensed under this chapter to practice prosthetics.

28) **Returning military veteran** means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.
Therapeutic Footwear. The following actions with respect to therapeutic footwear and medical devices for the foot and ankle must be performed by a licensed health care practitioner who is acting within his or her lawful scope of practice:

a. Modifications or additions to the interior or exterior of footwear for therapeutic purposes, including but not limited to heel lifts, outflare heels, Thomas heels, full sole lifts, wedged soles, rocker bottom soles, metatarsal bars, metatarsal raises or inserts that have fillers as part of their construction, toe fillers, and partial foot fillers;

b. Permanent or temporary attachment of an orthosis to the footwear;

c. Addition or modification of a removable or attached therapeutic foot device inside the shoe which was fabricated based on a cast, impression, mold, scan, imprint or tracing;

d. Creation of an image of a person’s foot or ankle through the use of a mold, cast, scanning device, digital appliance, tracing, pressure sensitive device or other similar device; and

e. Analysis, evaluation, measurement, assessment, or screening of a foot for the purpose of making a therapeutic recommendation.
SECTION 6: Qualifications for Licensure

1) Orthotist – To qualify for a license to practice orthotics, a person shall:
   a. Complete an orthotics education program which is accredited by the Commission on Accreditation of Allied Health Education Programs or its successor organization;
   b. Possess a baccalaureate degree or have successfully completed the number of semester hours equivalent to four (4) years of study at a four-year college or university;
   c. Successfully complete a clinical NCOPE residency in orthotics; and
   d. Successfully complete one of the following national certification examinations:
      1. American Board for Certification in Orthotics, Prosthetics, and Pedorthics, Inc. (“ABCOPP”);  
      2. Board of Certification/Accreditation (“BOC”); or
      3. equivalent as determined by the Advisory Board.

2) Prosthetist – To qualify for a license to practice prosthetics, a person shall:
   a. Complete a prosthetics education program which is accredited by the Commission on Accreditation of Allied Health Education Programs or its successor organization;
   b. Possess a baccalaureate degree or have successfully completed the number of semester hours equivalent to four (4) years of study at a four-year college or university;
   c. Successfully complete a clinical NCOPE residency in prosthetics; and
   d. Successfully complete one of the following national certification examinations:
      1. ABCOPP;
      2. BOC; or
      3. equivalent as determined by the Advisory Board.

3) Pedorthist – To qualify for a license to practice pedorthics a person shall:
   a. Possess a high school diploma or GED;
b. Possess the Certified Pedorthist credential from either ABCOPP or BOC; and

c. Successfully complete one of the following national certification examinations:

1. ABCOPP;

2. BOC; or

3. equivalent as determined by the Advisory Board.

4) Assistant – An applicant for certification to practice as an orthotic assistant, prosthetic assistant, or orthotic/prosthetic assistant shall submit to the written evidence, verified by oath, that the applicant

a. Possesses a high school diploma or GED;

b. Has a minimum of three (3) years of experience in the field in which the person is seeking licensure as an assistant; and

c. Has written documentation from a licensed prosthetist or a licensed orthotist that the applicant is qualified to perform as an assistant in the field in which the person is seeking licensure as the assistant.

5) Reciprocity. An applicant from another state or jurisdiction qualifies for a reciprocal license if:

6a. The applicant holds a substantially similar license in another United States jurisdiction. A license from another state is substantially similar to an Arkansas license if the other state’s licensure qualifications require:

1. Orthotists: items (a-d) in paragraph (1) above;

2. Prosthetists: items (a-d) in paragraph (2) above;

3. Pedorthists: items (a-c) in paragraph (3) above; and

4. Prosthetic assistants: items (a-c) in paragraph (4) above;

b. The applicant holds his or her license in good standing;

c. The applicant has not had a license revoked for:

(1) An act of bad faith; or

(2) A violation of law, rule, or ethics; and

7) d. The applicant does not hold a suspended or probationary license in a United States jurisdiction:
e. The applicant is competent in orthotics; and
f. the applicant submits a fully executed application, fee, and the following documentation:

1. Evidence of current and active licensure in that state.
2. Evidence that the other state’s qualifications match those in (5)(a);
3. The names of all states in which the applicant is currently licensed or has been previously licensed;
4. Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for:
   1. (i) An act of bad faith; or
   2. (ii) A violation of law, rule, or ethics.

6) Military

A.- The following individuals are eligible for immediate licensing consideration based on military service or affiliation:
1. An active duty military service member stationed in the State of Arkansas;
2. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or
3. The spouse of a person under paragraph

B. Such applicant shall submit:
1. Payment of the initial licensure fee;
2. Evidence that the individual holds a substantially equivalent license in another state; and
3. Evidence that the applicant:
   a. is qualified military under paragraph (6)(A)(1) or (2) above; and
   b. meets qualifications under paragraph (5).

7) Pre-Licensure Criminal Background Check

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A. Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual’s criminal record will disqualify the individual from licensure and whether a waiver may be obtained.

B. The individual must obtain the pre-licensure criminal background check petition form from the Board.

C. The Board will respond with a decision in writing to a completed petition within a reasonable time.

D. The Board’s response will state the reasons for the decision.

E. All decisions of the Board in response to the petition will be determined by the information provided by the individual.

F. Any and all decisions made by the Board in response to a pre-licensure criminal background check petition are not subject to appeal.

G. The Board will keep and maintain a copy of the petition and response, which will be reviewed during the formal application process.

8) Waiver Request

A. If an individual has been convicted of a crime listed in A.C.A. § 17-2-102(a), the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:

1. An affected applicant for a license; or

2. An individual holding a license subject to revocation.

B. The Board may grant a waiver upon consideration of the following, without limitation:

1. The age at which the offense was committed;

2. The circumstances surrounding the offense;

3. The length of time since the offense was committed;

4. Subsequent work history since the offense was committed;

5. Employment references since the offense was committed;

6. Character references since the offense was committed;
7. Relevance of the offense to the occupational license; and

8. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

C. A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees. A request for waiver, if made by a licensee, must be in writing.

D. The Board will respond with a decision in writing and will state the reasons for the decision.

E. Appeals under this section will be subject to the Administrative Procedures Act §25-15-201 et seq.
SECTION 7: Procedures for Licensure

1) An applicant shall obtain a current application packet from the Advisory Board, respond truthfully and completely to every question or request for information contained in the application form, and submit it, along with all documents and fees required, to the Department. It is the intent of this Rule that all steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all materials be filed simultaneously.

2) An applicant shall complete the application with the supporting documentation proscribed to the Arkansas Department of Health.

3) An applicant shall disclose the fact of and the circumstances surrounding any of the following:
   a. Conviction of a crime; or plea of guilty, nolo contendere, or a finding of guilt of a felony listed under § 17-2-102 in any country, state, or municipality, except minor traffic violations;
   b. The denial of certification or licensure application by any other state or country, or the discipline of the certificate holder or licensee in any state or country;
   c. Loss, restriction, or voluntary surrender of certification or licensure privileges; and
   d. Any judgment or settlement in a civil suit in which the applicant was a party defendant, including malpractice, unethical conduct, breach of contract, or any other civil action remedy recognized by the country's or state's statutory, common law, or case law.

4) When necessary, all required documents shall be translated into English and such translation, together with the original document, shall be certified as to authenticity by the issuing source. Both versions must be submitted simultaneously.

5) Application review, approval, denial, and interview decisions shall be made by the Advisory Board.

6) The requirement for licensure under these Rules shall not apply to:
   A person who is an employee of any bureau, division, or agency of the federal government while in the discharge of the employee’s official duties;
   a. A student enrolled in an educational program at a college or university which will enable that student to obtain a license to practice orthotics, prosthetics, or pedorthics upon graduation from the program;
   b. A resident continuing such resident’s clinical education in a residency accredited by the National Commission on Orthotic and Prosthetic Education; and
   c. A student in a qualified work experience program or internship in pedorthics.

7) Licensee shall notify the Advisory Board within thirty (30) days of any:
   a. Extension of the discipline of practice,
   b. Name and address changes.
SECTION 15: Severability

If any provision of these Rules and Regulations or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these Rules and Regulations which can give effect without the invalid provisions or applications and to this end the provision hereto are declared severable.
This will certify that the foregoing revisions to the Rules and Regulations for Orthotic, Prosthetic and Pedorthic Providers in Arkansas were adopted by the State Board of Health of Arkansas at a regular session of said Board held in Little Rock, Arkansas, on the____ day of______, 2019.

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Nathaniel Smith, M.D., MPH
Secretary of Arkansas State Board of Health
Director, Arkansas Department of Health and State Health Officer

date